

## EXHIBIT B



**Bert Bell/Pete Rozelle NFL Player Retirement Plan**

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**NFL PLAYERS**  
ASSOCIATION

VIA FEDERAL EXPRESS

May 21, 2015

Mr. Chris Hudson  
6361 Moon Dance Cove  
Olive Branch, MS 38654

**Re: Appeal for Reclassification**  
**Final Decision on Review**

Dear Mr. Hudson:

At its May 14, 2015 meeting, the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Plan") considered your appeal from the Disability Initial Claims Committee's ("Committee") earlier decision to deny your request for reclassification of your total and permanent disability ("T&P") benefits from the Inactive to the Football Degenerative category. We regret to inform you that the Retirement Board denied your appeal. This letter explains the Retirement Board's decision.

**Relevant Plan Provisions**

Section 5.10(e) of the current Plan indicates that a prior version of the Plan controls your request for reclassification and this appeal. Section 5.10(e) reads as follows:

"Any Player who was awarded a disability benefit prior to September 1, 2011 (including any Player whose application for a disability benefit was received by this Plan prior to September 1, 2011, that leads to an award of a benefit) will not be eligible for a benefit under the rules governing the award of disability benefits that go into effect on September 1, 2011, unless based on an impairment other than the one that originally qualified him for a disability benefit. Furthermore, **the rules in effect prior to September 1, 2011, will govern all appeals and reclassifications of disability benefits that were awarded prior to September 1, 2011** (including any Player whose application for a disability benefit was received by this Plan prior to September 1, 2011, that leads to an award of a benefit), except that the dispute resolution procedures of Section 8.3 will apply. (Emphasis added.)"

The applicable Plan in effect prior to September 1, 2011 was the Plan as Amended and Restated as of April 1, 2009. Section 5.1 of that Plan provided that a Player would be eligible for T&P benefits if he was "determined by the Retirement Board or the Disability Initial Claims Committee to be totally and permanently disabled as defined in Section 5.2...."

Section 5.2(a) stated that a Player "will be deemed to be totally and permanently disabled if the Retirement Board or the Disability Initial Claims Committee finds that he has become totally disabled to the extent that he is substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit...."

Section 5.1 provided four categories of T&P benefits, and two are relevant here:

- (c) Football Degenerative. The monthly total and permanent disability benefit will be no less than \$4,000 if the disability(ies) arises out of League football activities, and results in total and permanent disability before fifteen years after the end of the Player's last Credited Season.
- (d) Inactive. This category applies if (1) the total and permanent disability arises from other than League football activities while the Player is a Vested Inactive Player, or (2) the disability(ies) arises out of League football activities and results in total and permanent disability fifteen or more years after the end of the Player's last Credited Season. The minimum benefits provided under this Section 5.1(d) will be offset by any disability benefits provided by an employer other than the League or an Employer, but will not be offset by worker's compensation....

Section 11.6(a) of the Plan described the applicable appeal procedures. It stated that a "Player will have 180 days from the receipt of an adverse benefit determination to file a written request for review of the initial decision to the Retirement Board."

Section 5.5(b) of the Plan described the standard that applied when a Player sought reclassification of a prior benefits decision:

"Reclassification. A Player who becomes totally and permanently disabled and who satisfies the conditions of eligibility for benefits under Section 5.1(a), 5.1(b), 5.1(c), or 5.1(d) will be deemed to continue to be eligible only for the category of benefits for which he first qualifies, unless the Player shows by evidence found by the Retirement Board or the Disability Initial Claims Committee to be clear and convincing that, because of changed circumstances, the Player satisfies the conditions of eligibility for a benefit under a different category of total and permanent disability benefits. A Player's total and permanent disability benefit will not be reclassified or otherwise increased with respect to any month or other period of time that precedes by more than forty-two months the date the Retirement Board receives a written application or similar letter requesting such reclassification or increase that begins the administrative process that results in the award of the benefit. This forty-two month limitation period will be tolled for any period of time during which such Player is found by the Retirement Board or the Disability Initial Claims Committee to be physically or mentally incapacitated in a manner that substantially interferes with the filing of such claim."

## **Discussion**

On March 12, 2010, the Plan Office received your original application for T&P benefits. That application was ultimately presented to the Retirement Board, which in November 2011 affirmed an award of Inactive T&P benefits, effective January 1, 2010. Notably, the award of Inactive benefits was premised upon the Retirement Board's determination that you were totally and permanently disabled due to depression and certain cognitive impairments.

By letter dated September 16, 2014, you requested that your Inactive benefits be reclassified to the Football Degenerative category. With your request you submitted evidence of a favorable Social Security award that, according to you, was based upon cognitive/neurocognitive impairments that arose out of League football activities.

The Committee denied your request for reclassification by letter dated October 8, 2014. Among other things, the Committee concluded that your request for reclassification failed to present clear and convincing evidence of "changed circumstances," as required by Section 5.5(b) of the Plan.

Your attorney, Robert Donati, appealed the Committee's initial decision to the Retirement Board in a letter dated March 27, 2015. With the appeal, your attorney submitted additional evidence and arguments to show that your cognitive impairments arose out of League football activities.

At its May 14, 2015 meeting, the Retirement Board reviewed the entire record underlying your appeal and determined that your request for reclassification must be denied. Section 5.5(b) governs requests for reclassification such as yours, and it permits reclassification of T&P benefits only where a Player provides "clear and convincing" evidence of "changed circumstances" warranting "a different category of total and permanent disability benefits." In this and all other instances, the Retirement Board interprets Section 5.5(b)'s "changed circumstances" requirement to mean a change in a Player's physical condition—such as a new or different impairment—that warrants a different category of benefits.

Your request, however, does not present a new or different impairment. As noted above, your original award of T&P benefits in November 2011 was based on depression and cognitive impairments. Your current reclassification request also is based on cognitive impairments. Because your reclassification request is based on the same impairments that led to your original award of T&P benefits, the Retirement Board denied your appeal. Given the terms of the Plan and the circumstances of your case, the Retirement Board concluded that it cannot honor your request to reclassify your existing Inactive benefits to the Football Degenerative category.

## **Appeal Rights**

You should regard this letter as a final decision on review within the meaning of Section 503 of the Employee Retirement Income Security Act of 1974, as amended, and the regulations issued thereunder by the Department of Labor. You are entitled to receive,

upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits. You have the right to bring an action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended, within 42 months from the date of this decision.

If you have any questions, please contact the Plan Office.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Miller". The signature is written in a cursive, slightly slanted style.

Michael B. Miller  
Plan Director  
on behalf of the Retirement Board

MBM:prs

cc: Robert Donati